



DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Judgment under the Clean Air Act

On September 27, 2021, the Department of Justice lodged a proposed consent judgment with the United States District Court for the Eastern District of New York in the lawsuit entitled *United States of America v. The City of New York et al.*, Case No. 21-CV-5338.

The United States filed this lawsuit to seek civil penalties and injunctive relief for violations of the Clean Air Act, 42 U.S.C. 7401 *et seq.* (“CAA”). The alleged violations concern the New York City Department of Education’s (“NYCDOE”) failure to comply with the Area Source Boiler Rule 40 CFR 63 (the “Rule”) at approximately 1329 boilers located at 566 public school buildings across New York City. The Complaint alleges that NYCDOE failed to conduct timely tune ups and energy assessments under the Rule, and failed to provide required notifications to the Environmental Protection Agency (“EPA”).

The Consent Judgment requires NYCDOE to implement injunctive relief that includes: conducting and documenting periodic tune-ups that will identify boilers in need of repair; implementing additional levels of quality review for completed tune-up reports; and providing periodic reports to the United States concerning boilers that are achieving less than 83% combustion efficiency. Further, to mitigate excess emissions caused by NYCDOE’s non-compliance, the proposed Consent Judgement requires NYCDOE to convert to natural gas or replace seven large boilers that use number 4 oil prior to March 2023. The Consent Judgment also requires defendants to pay a civil penalty of \$1,000,000.

The publication of this notice opens a period for public comment on the proposed Consent Judgment. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *The City of New York, New York City Department of Education*, Civil Action No. 21-CV-5338, D.J. Ref. No. 90-5-2-1-11718. All comments must be submitted no later than thirty (30) days after the publication date

of this notice. Comments may be submitted either by e-mail or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By e-mail	pubcomment-ees.enrd@usdoj.gov
By mail	Assistant Attorney General U.S. DOJ – ENRD P.O. Box 7611 Washington, D.C. 20044-7611

During the public comment period, the Consent Judgment may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>. We will provide a paper copy of the Consent Judgment upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library
U.S. DOJ – ENRD
P.O. Box 7611
Washington, D.C. 20044-7611

Please enclose a check or money order for \$13.50 (25 cents per page reproduction cost) payable to the United States Treasury.

Henry Friedman,

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Environmental Enforcement Section,

Environment and Natural Resources Division.